

Howard Shook

**AN ORDINANCE  
BY COUNCILMEMBER HOWARD SHOOK**

10-0 -0220

**AN ORDINANCE AUTHORIZING THE PURCHASE OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE WIEUCA ROAD SIDEWALK IMPROVEMENTS PROJECT; TO AUTHORIZE THE MAYOR, OR HIS DESIGNEE, TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY, OR HIS DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.**

**WHEREAS**, it is necessary to acquire permanent and temporary construction easements and necessary rights-of-way from various property owners for improvements for the Wieuca Road Improvements Sidewalk Project; and

**WHEREAS**, state law, O.C.G.A. Section 32-3-4 authorizes the use of declaration of taking as a method of condemnation whenever a municipality desires to take private property for public road purposes or for any other public transportation purposes; and

**WHEREAS**, use of declaration of taking as a method of condemnation would expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of this projects which involves transportation improvements; and

**WHEREAS**, state law requires a finding by a municipality that circumstances necessitate the use of declaration of taking before such method of condemnation can be used by a municipal government; and

**WHEREAS**, in order to complete the proposed projects in a timely fashion the requirements of sections 2-1541(d) and 2-1545(d) of the Procurement and Real Estate Code which require further authorization of Council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance are waived.

**THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA,**

**SECTION 1:** That the Chief Procurement Officer or Consultant are hereby authorized to negotiate with the affected property owners to acquire temporary or permanent construction easements and the necessary rights-of-way, and other related property interests necessary to complete construction of Wieuca Road Improvements Project.

**SECTION 2:** That the use of declaration of taking as a method of condemnation be utilized to expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involves transportation improvements.

**SECTION 3:** That in order to complete the proposed projects in a timely fashion the requirements of sections 2-1541(d) and 2-1545(d) of the Procurement and Real Estate Code which require further authorization of Council for acquisition of permanent and temporary easements and the necessary rights-of-way described in this ordinance are waived.

**SECTION 4:** That the Chief Procurement Officer or consultant are hereby authorized to obtain title reports, appraisal reports, land surveys, legal descriptions, environmental reports and to negotiate with the affected property owners; where the Chief Procurement Officer's negotiations with the owners are unsuccessful, to institute necessary legal action through condemnation or any other method provided by law to acquire the property interests needed to complete Wieuca Road Improvements Project.

**SECTION 5:** That the City's outside consultants and their subconsultants are authorized to settle those acquisitions of property at an amount not to exceed ten percent (10%) above the estimated just compensation. That the Chief Procurement Officer is authorized to administratively settle, without further authorization of City Council, those acquisitions which exceed these limitations which the City's consultants cannot otherwise acquire. However, in no event shall the Chief Procurement Officer's authority to administratively negotiate or settle such acquisitions without Council authorization exceed twenty percent (20%) above the estimated just compensation of affected properties.

**SECTION 6:** That the City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnations proceedings, without further authorization from City Council. The provisions of Section 2-1542 requiring further authorization for condemnations are hereby waived.

**SECTION 7:** That the City Attorney, or his designee, is authorized to monitor and supervise the closing transactions with affected property owners in connection with these projects, with the assistance of the consultants and its subconsultants.

**SECTION 8:** That all costs associated with this ordinance will be charged to and paid from PTAE0 Funding source:13101639 101 350291105 5411002 COA.

**SECTION 9:** That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

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AT ORDINANCE 11/19/10  
BY COUNCIL MEMBER HOWARD SHOOK

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First Reading  
Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred To \_\_\_\_\_

FINAL COUNCIL ACTION  
☐ 2nd ☐ 1st & 2nd ☐ 3rd  
Readings  
☐ Consent ☐ V Vote ☐ RC Vote

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_  
Members \_\_\_\_\_  
Refer To \_\_\_\_\_

CERTIFIED

☐ CONSENT REFER  
☐ REGULAR REPORT REFER  
☐ ADVERTISE & REFER  
☐ 1<sup>ST</sup> ADOPT 2<sup>ND</sup> READ & REFER  
☒ PERSONAL PAPER REFER

Date Referred 1/19/10  
Referred To: Finance/Exc

Date Referred \_\_\_\_\_  
Referred To: \_\_\_\_\_

Date Referred: \_\_\_\_\_  
Referred To: \_\_\_\_\_

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_  
Members \_\_\_\_\_  
Refer To \_\_\_\_\_

MAYOR'S ACTION